

EXHIBIT 23

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**Consolidated Industries, LLC. d/b/a Weather King Portable
Buildings v. Jesse A. Maupin, et al.**

January 14, 2025

Deposition of Jesse A. Maupin

1:22 -cv-01230

221 N. LaSalle St., Suite 1950 Chicago, IL 60601
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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

CONSOLIDATED INDUSTRIES, LLC,
d/b/a WEATHER KING PORTABLE
BUILDINGS,

Plaintiff,

vs.

JESSE A. MAUPIN, BARRY D.
HARRELL, ADRIAN S. HARROD,
LOGAN C. FEAGIN, STEPHANIE L.
GILLESPIE, RYAN E. BROWN,
DANIEL J. HERSHBERGER, BRIAN L.
LASSEN, ALEYNA LASSEN, and
AMERICAN BARN CO, LLC,

Defendants.

ORIGINAL

No. 1:22-cv-01230

VOLUME 1

The Videotaped Deposition of
JESSE A. MAUPIN, Individually and as representative of
American Barn Co., LLC, called as a witness by the
Defendant, pursuant to the Rules of Civil Procedure for
the United States District Courts pertaining to the
taking of depositions, taken before Deborah A. Rannells,
CSR, Illinois License No. 084-003408, at 111 East Wacker
Drive, Suite 2600, Chicago, Illinois, on Tuesday,
January 14, 2025, commencing at the hour of 9:07 a.m.

Reported for: SCHEFF & ASSOCIATES, INC.

Reported by: Deborah A. Rannells

Certified Shorthand Reporter

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A P P E A R A N C E S:

BUTLER SNOW, LLP
150 3rd Avenue South, Suite 1600
Nashville, Tennessee 37201
(615) 651-6700, by:

MR. DAVID L. JOHNSON
david.johnson@butlersnow.com

MR. JOHN H. DOLLARHIDE
john.dollarhide@butlersnow.com

appeared on behalf of the Plaintiff;

TAFT STETTINIUS & HOLLISTER, LLP
111 East Wacker Drive, Suite 2600
Chicago, Illinois 60601
(312) 527-4000, by:

MR. THOMAS G. PASTERNAK
tpasternak@taftlaw.com

MS. ELIZABETH WELLHAUSEN
ewellhausen@taftlaw.com

appeared on behalf of the Defendants.

ALSO PRESENT:

Mr. Milo Yelesiyevich (Savich), Videographer
Liticorp

Ms. Jill Coker

* * * * *

I N D E X

WITNESS: JESSE A. MAUPIN

EXAMINATION BY:

PAGE

Mr. Johnson

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1 THE VIDEOGRAPHER: Good morning. Today's date
2 is January 14th, 2025. We are going on the video record
3 at 9:07 a.m. We are present at Taft Stettinius and
4 Hollister, LLP, 111 East Walker Drive, Suite 2600,
5 Chicago, Illinois 60601.

6 We are here for the purpose of taking the
7 videotaped deposition of Jesse Maupin. The party on
8 whose behalf the deposition is being taken is the
9 defendant. And the party at whose instance the
10 deposition is being recorded on an audiovisual device is
11 the defendant.

12 This case is instituted in the United
13 States District Court, Western District of Tennessee,
14 Eastern Division. The case number is
15 1:22-cv-01230-STA-jay. The case is entitled,
16 Consolidated Industries, LLC, doing business as Weather
17 King Portable Buildings versus Jesse A. Maupin, et al.

18 My name Milo Savich, and I am the legal
19 video specialist from Liticorp, 1919 North Milwaukee
20 Avenue, Chicago, Illinois 60647. The court reporter
21 report is Deborah Rannells from Scheff and Associates.

22 I will now ask the attorneys to introduce
23 themselves starting with the plaintiff's counsel first.

24 MR. JOHNSON: David Johnson and John Dollarhide

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1 for the plaintiff.

2 MR. PASTERNAK: Tom Pasternak for the
3 defendant. Elizabeth?

4 MS. WELLHAUSEN: Sure. Elizabeth Wellhausen
5 for defendant.

6 THE VIDEOGRAPHER: Will the court reporter
7 please swear in the witness, and we may then proceed.

8 (Whereupon, the witness was duly
9 sworn.)

10

11 JESSE A. MAUPIN,
12 called as a witness herein, having been first duly sworn
13 was examined and testified as follows:

14

15 EXAMINATION

16 BY MR. JOHNSON:

17 Q Good morning, Mr. Maupin. Could you please
18 state your name and address for the record?

19 A Jesse Allen Maupin, 8139 State Route 121 South,
20 Murray, Kentucky 42071.

21 Q Have you ever given a deposition before?

22 A No, sir.

23 Q Your attorneys may have given you a few of the
24 ground rules, but I'm just going to go over a bit of

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1 If you flip over to Page 19 -- well,
2 first of all, before you get to that, were yours and
3 ABCO's responses to these discovery requests truthful and
4 accurate?

5 A Yes.

6 Q And is honesty important to you?

7 A Yes.

8 Q Is telling the truth important to you?

9 A Yes.

10 Q Have you been truthful and honest in these
11 court proceedings?

12 A Yes.

13 Q Has everything that you represented to Weather
14 King and the court been truthful and accurate?

15 A Yes.

16 Q Okay. Looking at Exhibit 5, Page 19, this is
17 request for admission No. 15. And the request asks for
18 you admit, While still employed by Weather King, you
19 encouraged one or more rental companies with whom Weather
20 King has done business to plan to do business with ABCO,
21 and your response there is denied; correct?

22 A Yes.

23 Q Is that truthful and accurate?

24 A Yes.

1 A For a little while, yes.

2 Q Okay. What did you feel like Daniel
3 Hershberger brought to the table?

4 A Daniel has been building sheds since he was ten
5 years old, so he knows buildings.

6 Q Let's pull up Exhibit 14.

7 And if you look at your response to
8 interrogatory No. 6, and when I say "your," it says
9 ABCO's response. And this interrogatory asks for each
10 person who was employed by Weather King and who while
11 still employed by Weather King was approached by the
12 possibility of forming an employment relationship or
13 other relationship with ABCO.

14 And then your response to No. 6 lists
15 Stephanie Gillespie, Mitch Sykes, Logan Feagin, Ryan
16 Brown, Daniel Hershberger, and Brian and Aleyna Lassen.

17 A Yes.

18 Q And is that response truthful and accurate?

19 A Yes.

20 Q So no other Weather King employees were
21 approached; is that correct?

22 A No. Adrian Harrod.

23 Q Okay. Anybody else?

24 A Amber Hill.

1 Q Anyone else?

2 A No.

3 Q And why weren't Adrian Harrod and Amber Hill
4 identified before now?

5 A I don't know. I must have forget to -- I don't
6 know.

7 Q Who approached Amber Hill?

8 A I did.

9 Q And this says that these individuals were
10 approached by either you or Barry Harrell, and that all
11 communications were in person; is that correct? Is that
12 truthful and accurate?

13 A Yes, sir.

14 Q Who was approached by Jesse and who was
15 approached by Barry?

16 A Everybody was approached by me with the
17 exception of Mitch Sykes. Barry Harrell approached Mitch
18 Sykes.

19 Q Okay. Do you know what Barry said to Mitch
20 when he approached him?

21 A I don't.

22 Q Before June 1, 2022, did ABCO ever pay or loan
23 any money to any Weather King employees or contractors or
24 any of the companies they operated?

1 A No.

2 Q If you could pull up Exhibit 8.

3 Okay. In looking at response to No. 3,
4 and the question posed is asking you to identify
5 communications you've had through the date of termination
6 of employment with Weather King relating to the creation,
7 funding, et cetera, or operation, et cetera, of any
8 business enterprise in the portable business -- portable
9 buildings industry.

10 And your response lists conversations
11 with certain people. It says, All those conversations
12 were in person and occurred before and after my
13 termination from Weather King.

14 Is that a truthful and accurate response?

15 A Yes, sir.

16 Q So all of your communications were verbal?

17 A Yes, sir.

18 Q All of them were in person?

19 A Yes, sir.

20 Q Not a single text message or email with any of
21 these people?

22 A About the formation of ABCO?

23 Q It didn't say just the formation. It says,
24 related to the creation/formation or potential creation

1 or formation of, funding or potential funding of, and/or
2 operation or potential operation of any business
3 enterprise in the portable buildings industry.

4 So is that a truthful and accurate
5 response, Mr. Maupin?

6 A Yes. I do not remember any.

7 Q Okay. So you never discussed any of this over
8 the telephone?

9 A It's all on the telephone.

10 Q Well, you said -- your response says, All these
11 conversations were in person?

12 A No. Correct, it was all in person. There was
13 nothing on the telephone.

14 Q So you never had any telephone calls with any
15 responsive telephone calls with any of these people?

16 MR. PASTERNAK: Objection. Asked and answered.

17 BY MR. JOHNSON:

18 Q You could answer again.

19 A Nothing was in telephone.

20 Q And nothing was by text?

21 A No.

22 Q Okay.

23 A Not that I remember.

24 Q Do you want to take a break or are you good?

1 A I'm good.

2 Q Okay. Let's pull up Exhibit 5 again.

3 Starting at Page 9 and 10, we have
4 requests for production of documents that were sent to
5 you. These are your discovery responses. And you were
6 asked to produce text messages, emails and other
7 communications that you had.

8 If you look at No. 6, with other
9 defendants; correct? It says, With Weather King
10 employees there No. 6; correct?

11 A No. 6, yes, all correspondence and documents
12 exchanged.

13 Q With any former Weather King employees, and you
14 put "none" on there; correct?

15 A Yes.

16 Q And No. 4, if you turn back, asks about
17 communications with investors, and your response was
18 none; correct?

19 A Correct.

20 Q And if you flip over to the next page to No. 8,
21 that's asking about dealers. And your response was you
22 didn't possession anything; correct?

23 A Correct.

24 Q And then builders is asked on No. 9, and your

1 response is none; correct?

2 A Correct.

3 Q No. 11 is asking about drivers -- I'm sorry,
4 not -- yeah, 11, communications with drivers, and you put
5 none; correct?

6 A Correct.

7 Q And 12 and 13, these -- asking about
8 communications with rental companies, including BPS, and
9 you put none; correct?

10 A Correct.

11 Q No. 15 is asking about communications with
12 anybody about leasing property, and you put "none" on
13 that; correct?

14 A Correct.

15 MR. PASTERNAK: Objection. It's not asking for
16 communications, counsel. It's asking for correspondence.

17 MR. JOHNSON: Pardon me?

18 MR. PASTERNAK: You're saying -- asking that --
19 these requests are asking for all communications.

20 MR. JOHNSON: I meant, yeah, correspondence.

21 MR. PASTERNAK: Yeah. That's not what you're
22 saying.

23 MR. JOHNSON: That's not what my question was?

24

1 BY MR. JOHNSON:

2 Q The question is asking for correspondence, and
3 the answer is none.

4 Are these -- were these responses
5 truthful and accurate?

6 A Yes.

7 Q What was your understanding of what the court
8 expected you and ABCO to do to look for and produce
9 documents in response to Weather King's request?

10 A My understanding was if we had any notes. If
11 we had anything -- any paper or anything like that. Any
12 emails, that we had to turn them over.

13 Q Text messages?

14 A The text messages was all done on -- it was all
15 retrieved off of our telephones.

16 Q Okay. What did you and ABCO do to look for
17 responsive documents?

18 A Well, we looked through everything that we had
19 access to that that we could remember of anything that
20 would be pertinent to it.

21 Q Okay. And what did you have access to?

22 A Well, we don't -- I don't keep notes. This
23 isn't -- this hasn't been a document case. I mean, we
24 don't -- most everything I've ever done has been in

1 person. I don't keep notes. I don't keep a ledger. I
2 mean, it's not the type of person that I am. Most people
3 that we work with are the same way.

4 **Q Did you scroll through your cell phone to see**
5 **whether you had responsive documents?**

6 A No.

7 **Q Why not?**

8 A Because our cell phones would -- I was told the
9 cell phones will end up getting turned over and
10 everything will be retrieved off of that. Don't delete
11 anything, and we didn't.

12 **Q What kind of phone have you possessed?**

13 A The same one for the past eight years, an
14 iPhone X.

15 **Q And for your iPhone, you've had your messages**
16 **backed up to iCloud; correct?**

17 A I guess, if someone -- I don't know.

18 **Q Okay. Do you know if your iCloud storage was**
19 **free or whether you paid a monthly fee to Apple for**
20 **iCloud storage?**

21 A There's a monthly fee. There always has been.

22 **Q Okay. And you've had that subscription to**
23 **iCloud's storage for your messages since before 2022?**

24 A Yes. As far as I know, since I got the phone.

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1 Q Did you and ABCO employees check your iCloud
2 messages in response to Weather King's discovery?

3 A No.

4 Q Why not?

5 A Because it was going to be retrieved off of the
6 telephones for the forensic analysis.

7 Q Okay. What is the basis of your belief that it
8 was going to be retrieved from your phones as part of the
9 forensic analysis?

10 MR. PASTERNAK: Don't answer that. It's
11 privileged communication.

12 MR. JOHNSON: All right. Let me just ask it
13 this way.

14 BY MR. JOHNSON:

15 Q Is the source of that information your legal
16 counsel?

17 A Yes.

18 Q Okay. Any other source other than your legal
19 counsel?

20 A No.

21 Q Okay. You responded to those document requests
22 in March of 2023; correct? You could flip it over.

23 A Yes.

24 Q Okay. And then No. 14, if you look at your

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1 (Deposition Exhibit No. 25 marked for
2 identification by counsel and
3 tendered to the witness.)

4 BY MR. JOHNSON:

5 Q And then in response to that letter, I'm
6 handing you what I've marked as Exhibit 25, which is a
7 May 5, 2023 letter from Mr. Pasternak. And then if you
8 look at Page 2 of that letter under request No. 13 and
9 15, do you see there? Read that for us.

10 A Maupin confirmed that he has no responsive
11 documents. We are not required to give you an
12 explanation of the facts as they are.

13 Q Okay. What did you do to confirm that you had
14 no responsive documents?

15 A I didn't have documents. I don't keep
16 documents.

17 Q Okay.

18 A And I didn't --

19 Q You don't keep --

20 A There's no paper trails to any of this stuff.

21 Q You don't keep text messages?

22 A I do.

23 Q Okay. Well, isn't that a document?

24 A I must have misunderstood what a document is.

1 I thought a document was something that you hand
2 somebody, a physical -- that had a physical substance to
3 it.

4 (Deposition Exhibit No. 26 marked for
5 identification by counsel and
6 tendered to the witness.)

7 BY MR. JOHNSON:

8 Q Okay. I'm going to hand to you a document
9 which we'll mark as Exhibit No. 26. This is the
10 defendants' opposition to Weather King's motion to compel
11 forensic examination.

12 On Page 1, read that third sentence,
13 please?

14 A They have provided all the documents that they
15 possess, although plaintiff refuses to believe it.

16 Q Okay. And then read that last sentence on
17 Page 1 there at the bottom, please.

18 A Plaintiff, despite defendants' discovery
19 responses and multiple confirmations by counsel, refuses
20 to accept the simple fact that most of the documents
21 requested do not exist in defendants' hands.

22 Q Okay. So you went from claiming that
23 responsive documents never existed in the first place to
24 acknowledging they existed but claiming that they do not

1 **exist in your hands; correct?**

2 A Yes.

3 **Q Okay. Is this because you knew that responsive**
4 **documents did indeed exist, you were just trying to claim**
5 **that you no longer had possession of them?**

6 A No.

7 **Q Okay. What was it?**

8 A I thought a document was something that was
9 physical, and it could be handled and given to someone.

10 **Q Okay. What was -- did you have communications**
11 **with your legal counsel about that?**

12 MR. PASTERNAK: Objection. Do not answer.

13 MR. JOHNSON: I'm sorry, you said do not
14 answer?

15 MR. PASTERNAK: Frivolous.

16 MR. JOHNSON: Yeah, okay. I'm just confirming.

17 BY MR. JOHNSON:

18 **Q I'm just asking if there were not -- I'm not**
19 **asking for the substance of the communication. I'm just**
20 **asking if you did have communications about that with**
21 **your legal counsel?**

22 MR. PASTERNAK: It goes to the substance of the
23 communication, counsel. Do not answer.

24 MR. JOHNSON: Okay.

1 BY MR. JOHNSON:

2 Q Did you understand that the opposition of this
3 motion to compel forensic examination was talking -- was
4 in response to a motion that we filed asking why you did
5 not produce text messages?

6 A No.

7 Q Okay. Did you -- is it your custom to review
8 documents that Weather King has filed in this case?

9 A I review them. Half of them I don't honestly
10 understand. But I review them, yes.

11 Q Is it your practice, too, to review drafts of
12 your court filings before they're filed?

13 A I read over them, yes.

14 (Deposition Exhibit No. 27 marked for
15 identification by counsel and
16 tendered to the witness.)

17 BY MR. JOHNSON:

18 Q Okay. I'm going to hand to you a document,
19 which we'll mark as Exhibit 27. This is the defendants'
20 response to plaintiff's motion to compel supplementation
21 of discovery responses filed with the court dated June 7,
22 2023.

23 And in this document you told Weather
24 King and the court that the reason why you didn't produce

1 documents that Weather King requested was because Weather
2 King owned all of the defendants' cell phones and other
3 devices and that you had -- that all defendants had
4 returned the devices to Weather King after you left
5 Weather King; is that correct?

6 A I'll have to read over this. I don't --

7 Q Well, let's look at Page 10. If you'll read --
8 if you look down that paragraph in Section C, the third
9 sentence, if you could read that sentence, please.

10 A Defendants have informed plaintiff on numerous
11 occasions that the cell phones and laptops defendants
12 used when working at Weather King were owned by Weather
13 King and, therefore, returned to Weather King upon each
14 defendants discharge.

15 Q So on June 27, 2023, that was the excuse that
16 you told the court for why responsive information wasn't
17 produced; is that correct?

18 A That's what it says.

19 Q Okay. Was that a truthful and accurate
20 representation that you made to the court?

21 A No. The laptops, yes. All that stuff was
22 owned by Weather King. The cell phones, no.

23 Q Okay. What's your explanation for why you made
24 an inaccurate representation to the court?

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1 MR. PASTERNAK: And you're ignoring, counsel,
2 that he corrected it. Go ahead. You could answer.

3 THE WITNESS: I don't remember. I don't know
4 why I would have agreed to that. The cell phones were
5 never property. In the beginning, some of us had cell
6 phones through the company. But the cell phones were
7 never owned by Weather King.

8 BY MR. JOHNSON:

9 Q Well, as we sit here today, do you have an
10 explanation other than that on why this was misstated to
11 the court?

12 A No, sir.

13 Q As a consequence of all this, you and the other
14 defendants were required to turn over your cell phones
15 and other devices for a forensic examination; correct?

16 A I didn't know it was a consequence. I was told
17 they were going to get turned over anyways so, yeah, I
18 guess.

19 Q Well, you -- in that document you're looking at
20 now, you objected to producing -- turning over your
21 devices for a forensic examination?

22 A Yes.

23 Q Okay. So why did you -- if you -- why did you
24 think at the outset you were going to be turning over

1 everything in the first place?

2 A Well, that's -- I mean, that's what I had
3 understanding of.

4 Q What was the basis of your understanding?

5 A People that I had talked with.

6 Q Okay. Other than legal counsel, who had you
7 spoken with about that?

8 A Other legal counsel.

9 Q Pardon me?

10 A Other legal counsels.

11 Q Other --

12 A Other attorneys that I know.

13 Q Other attorneys told you this, okay.

14 A That you're going to end up giving them up
15 anyways. You could fight it, but you're not going to --
16 and that's what the Lassens are dealing with now.

17 Q Okay. Do you acknowledge that it was not until
18 we received documents from the forensic examination that
19 we obtained from you text messages and other
20 communications that Weather King requested in discovery
21 and that Weather King demanded that you preserve on
22 June 13, 2022?

23 A Yes.

24 Q Okay. So sitting here today, what is now your

1 **excuse for why you failed to produce those**
2 **communications?**

3 A I didn't know the communications were
4 documents.

5 Q Okay. Did you delete or try to delete any text
6 messages or other communications?

7 A No.

8 Q Did you discuss deleting communications with
9 any of the other defendants?

10 A After the litigation hold letter, yes, we -- it
11 was discussed in a group meeting. Don't delete anything.

12 Q No one ever suggested to delete anything?
13 No one suggested to delete anything?

14 A No.

15 Q When you spoke with the other individual
16 defendants about joining the ABCO enterprise, you knew
17 what they were earning with Weather King; is that
18 correct?

19 A Yes.

20 Q Okay. And did you tell them they would make
21 more money -- they stood to make more money with ABCO?

22 A Yes.

23

24

1 Q And would the first time that you would have
2 discussed the ABCO enterprise with Mr. Feagin have been
3 around this time?

4 A Yes.

5 Q You say at 10:26, I've got a pretty good plan
6 that I'm certain will make everyone happy; correct?

7 A Yes.

8 Q What was that plan?

9 A I don't remember that. That was two years ago.
10 I don't even remember this conversation.

11 Q Well, we talked earlier this morning,
12 Mr. Maupin. You said, all your conversations were verbal
13 and in person. And so I'm wondering why we are seeing
14 text messages with Mr. Feagin about ABCO if all of your
15 conversations were verbal and in person?

16 A I didn't remember these conversations. If
17 there was something that was important, then it was done
18 in person. I don't remember this.

19 Q Well, did you go back and look at your text
20 messages before you responded to our discovery request?

21 A No.

22 Q Did something prevent you from doing that?

23 A I didn't -- like I said earlier, I didn't know
24 text messages were documents.

1 Q Well, it didn't have anything to do with
2 whether text messages were documents.

3 But did you -- did you think to look at
4 your text messages before you responded to Weather King's
5 interrogatories?

6 A No.

7 Q Okay.

8 (Deposition Exhibit No. 33 marked for
9 identification by counsel and
10 tendered to the witness.)

11 BY MR. JOHNSON:

12 Q I'm going to hand to you what we've marked as
13 Exhibit 33. It starts with ABCO 57144.

14 Do you recognize these as January 16,
15 2022 text messages between you and Mr. Feagin?

16 A Yes.

17 Q Okay. If you look at that text message on
18 11:04 that you text, read that for us?

19 A 11:04?

20 Q Yes.

21 A It says, Everyone is gonna get to see just how
22 damn good all of us are and we will dominate and have fun
23 doing it, too.

24 Q That was part of the plan to dominate the west,

1 A We did not retain him.

2 Q Okay. Let's look at Exhibit 5 again.

3 A I haven't been able to find 5 yet.

4 Q We'll help clean this up after the next break.

5 Here, I'll just hand you my copy.

6 We're looking at interrogatory No. 3, and
7 this is asking for communications that you had before you
8 left Weather King including with Weather King builders;
9 correct?

10 A Yes.

11 Q And you did not identify Kerry Ratzlaff on
12 there and you did not identify Ryan Woods on there;
13 correct?

14 A There was one of them on there that -- one of
15 these that it did -- there was one earlier that said that
16 I had talked with Ponderosa Portables, and you notated
17 that that was Kerry Ratzlaff.

18 Q Well, I'm not sure which one that's referring
19 to. But at least on this one, there's no reference to --

20 A No, no, there is not.

21 Q And is there a reference to Ryan Woods on
22 there?

23 A No.

24 Q So that response is not truthful and accurate,

1 is it?

2 A Correct, yes.

3 Q When did you first speak with Ryan Woods about
4 the possibility of building sheds for ABCO?

5 A I don't remember. It was hot, and it wasn't
6 long before he died. I don't remember.

7 (Deposition Exhibit No. 53 marked for
8 identification by counsel and
9 tendered to the witness.)

10 BY MR. JOHNSON:

11 Q I am handing you what we've marked as
12 Exhibit 53. This is document produced by First Bank
13 stamped 5409.

14 And these reflect a \$40,000 payment going
15 from ABCO to Ryan Woods on April 15, 2022; correct?

16 A Correct.

17 Q What was the purpose of that payment?

18 A To buy that Celtic forklift that he had.

19 Q So ABCO was buying a forklift from him for
20 ABCO's use?

21 A Yes.

22 Q And where did that forklift go to?

23 A Milan. It was referenced in the text messages
24 with Ryan earlier.

1 **January 12, 2022?**

2 A Yes.

3 **Q And what's that discussing?**

4 A It says that Ryan had brought Scott into the
5 know. Not all but some. We have him, and more
6 important, I think he will help a lot getting things
7 prepped.

8 **Q So do you construe that as Ryan Brown**
9 **indicating that he's been lining up drivers and other**
10 **people to join ABCO?**

11 A It confirms that he did Scott.

12 **Q Okay. Keeping things secret was important;**
13 **correct?**

14 A Yes.

15 **Q Okay. Who was Kyron Koehn?**

16 A Kyron Koehn?

17 **Q Koehn. That's spelled K-o-e-h-n.**

18 A He was a driver in Peoria?

19 **Q Okay. Independent contractor?**

20 A Yes.

21 **Q Is he an honest person?**

22 A Yes.

23 **Q Did -- I take it judging from your response to**
24 **interrogatories that you never spoke -- had any**

1 conversation with Kyron about joining ABCO while you were
2 still employed by Weather King; is that accurate?

3 A I talked to Kyron, yes. I talked to Kyron.
4 But Patrick Baize is the one who actually talked with
5 Kyron.

6 Q I'm sorry, repeat that.

7 A Patrick Baize talked to Kyron after I talked to
8 Pat Baize, and then Kyron came to me about it. So I did
9 talk to him, yes.

10 Q Okay. Well, why was he not listed in response
11 to that last interrogatory we just went over?

12 A I just forget about him. He's not driving for
13 us currently, and I forget about him.

14 Q Did you encourage him to join ABCO while you
15 were still employed by Weather King?

16 A I didn't encourage him. He said he's on board
17 in the text messages that you all got.

18 Q If he were to testify that you encouraged him
19 to join ABCO while you were still employed by Weather
20 King, would he be lying?

21 A He won't testify to that.

22 Q I'm asking, if he were to testify to that,
23 would he be lying?

24 A Yes.

1 is that, John?

2 MR. DOLLARHIDE: The first responses would be
3 12.

4 BY MR. JOHNSON:

5 Q Turn to Page 34. This is requests for
6 admission No. 88. I'm sorry, No. -- I'm sorry, No. 90.
7 It stays, While still employed by Weather King,
8 Mr. Feagin encouraged one or more Weather King dealers to
9 plan to do business with ABCO, and ABCO denied that.

10 Is that a truthful and accurate response?

11 A Well, as far as I knew then, yes.

12 Q You say, as far as you know then. You were
13 answering here on behalf of ABCO.

14 What did you do to respond to these
15 requests for admissions on behalf of ABCO?

16 A I asked them about it.

17 Q And Mr. Feagin denied it?

18 A Yes.

19 Q Okay. Do you think that was truthful and
20 accurate?

21 A No.

22 Q Okay. Then why did you respond this way? Or
23 why did ABCO respond this way?

24 A Well, I didn't know that until after this.

1 Q Okay. And then if we flip over to Page 37.

2 The same question is posed -- or the same requests for
3 admission is posed in 104 as it relates to Adrian Harrod.
4 It says, While still employed by Weather King, Mr. Harrod
5 encouraged one or more Weather King dealers to plan to do
6 business with ABCO, and the response is denied.

7 Is that truthful and accurate?

8 A Yes. He had told me no.

9 Q Do you believe that to be truthful and accurate
10 now as we sit here today?

11 A No.

12 Q Okay. And why do you now believe that to be
13 untruthful and inaccurate?

14 A I mean, two years later you find out a lot of
15 stuff.

16 Q How did you find out?

17 A I mean, you're going to -- through the word on
18 the street, you're going to find out. It's, I mean, with
19 talking with people.

20 Q Well, do you recall who specifically you spoke
21 with that made you convinced that Mr. Harrod and
22 Mr. Feagin were, in fact, encouraging Weather King
23 dealers to join the ABCO enterprise?

24 A I don't remember the specifics, no.

1 BY MR. JOHNSON:

2 Q I'm handing you what we've marked as
3 Exhibit 59. This is stamped ABCO 56430.

4 Do you recognize this as text messages
5 with Ms. Keeling dated January 18, 2022?

6 A Yes.

7 Q And these texts are referring to you wanting to
8 have a discussion with her about ABCO; correct?

9 A Correct.

10 Q You said, Nobody needs to know about it because
11 you wanted to keep it on the hush, on the down low;
12 correct?

13 A Yes.

14 Q You said all of your conversations with the
15 dealers were in person and verbal.

16 Why were you sending text messages about
17 this, Mr. Maupin?

18 A Well, that wasn't a conversation -- that wasn't
19 a conversation other than telling her to call me.

20 Q Okay. So we shouldn't see any text
21 communications between you and any dealers about you
22 getting ABCO started before June 1, 2022, should we?

23 A Not that I remember.

24 Q Okay. In here you were wanting Robin Keeling's

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1 (Deposition Exhibit No. 65 marked for
2 identification by counsel and
3 tendered to the witness.)

4 BY MR. JOHNSON:

5 Q Let's look at what I've marked as Exhibit 65.
6 It starts at ABCO 64537.

7 Do you recognize these as text messages
8 between you and Logan Feagin on May 9, 2022?

9 A Yes.

10 Q What do you say in that text at 12:11?

11 A Moriarty is taken care of. I've talked to
12 Jeanne and John, and they are on board and ready to rock
13 with us, so they are taken care of.

14 Q So you had lined them -- you had lined up
15 Jeanne's dealership on or before May 9, 2022; correct?

16 A Yes.

17 Q And Logan Feagin is happy about that; correct?

18 A Yes.

19 Q These are texts during -- Well, strike that.

20 (Deposition Exhibit No. 66 marked for
21 identification by counsel and
22 tendered to the witness.)

23 BY MR. JOHNSON:

24 Q This is Exhibit 66. This is a text message

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1 that Jeanne produced in discovery that's marked -- is it
2 Dvorak? Remind me.

3 A Dvorak, yeah.

4 Q Dvorak 63, and this is a text -- do you
5 recognize this as a text communication between her and
6 you?

7 A Mm-hmm.

8 Q Is that a "yes"?

9 A Yes, sir.

10 Q And on May 25, 2022, she's asking you about
11 your new logo; correct? ABCO's new logo?

12 A Yes.

13 Q Okay. And whether your --

14 THE COURT REPORTER: I'm sorry, and whether?

15 BY MR. JOHNSON:

16 Q Whether ABCO sheds would look similar to
17 Weather King; correct?

18 A Yes.

19 Q Why was this discussion not mentioned in ABCO's
20 discovery responses or your discovery responses?

21 A I didn't remember having it.

22 Q Did you go back and look at your text messages
23 with Jeanne to see whether they may contain responsive
24 information?

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1 he quoted me, he quoted it under Weather King's name
2 because he thought that was who it was for.

3 Q And you didn't correct him?

4 A Yeah, he re-sent invoices.

5 Q Oh, okay.

6 (Deposition Exhibit No. 72 marked for
7 identification by counsel and
8 tendered to the witness.)

9 BY MR. JOHNSON:

10 Q I hand to you what we've marked as Exhibit 72.

11 Do you recognize this as all the
12 defendants' amended answer to Weather King's first
13 amended complaint?

14 A Yes.

15 Q Okay. If you'll flip over to Page 17,
16 Paragraph 48 reads, On January 31, 2022, Defendant Maupin
17 emailed to himself a photograph of Weather King's
18 inventory count for each of its states.

19 Do you see that?

20 A Yep. Yes, sir.

21 Q And then if you flip over to the next page, you
22 denied that, didn't you?

23 A It goes over the P&L in that same paragraph.

24 Q Well, your answer denies the whole thing,

1 **doesn't it?**

2 A The answer does, but I mean, I did both. I
3 don't know why it says denied.

4 **Q So you don't -- so that denial is not an**
5 **accurate representation to the court; is that correct?**

6 A Correct.

7 (Deposition Exhibit No. 73 marked for
8 identification by counsel and
9 tendered to the witness.)

10 BY MR. JOHNSON:

11 **Q I hand you what we've marked as Exhibit 73,**
12 **which starts at WK-23.**

13 **Could you explain what this is,**
14 **Mr. Maupin?**

15 A Yes. It is the year-end inventory count that
16 Jennifer Hollingsworth would have given to me and all of
17 the rest of the guys for the year-end inventory.

18 **Q And you're sending this to yourself for ABCO's**
19 **use, aren't you?**

20 A No. Those are no use for that.

21 **Q Those are no use. Why are you sending it to**
22 **yourself?**

23 A I didn't have a scanner. I sent myself lots of
24 stuff or I would have to either get the girls, Amber or

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1 Stephanie or Brittany, to scan and send me stuff, or I'd
2 have to take a picture of it and email it to myself.

3 Q Well, if the records show that you sent it to
4 your personal email address and not your company email
5 address, why would you have been sending it to your
6 personal email address?

7 A It would have been a mistake. And when I click
8 on it, I had two emails, and I use my gmail account quite
9 often because all of our stuff was done on Google sheets.

10 Q Looking back at the last exhibit, 72,
11 Paragraph 48. The second sentence there says, On
12 March 4, 2022, Mr. Maupin emailed to himself photographs
13 of Weather King's profit and loss statement and balance
14 sheet.

15 Do you see that?

16 A Yes.

17 Q And that denial that it -- was that truthful
18 and accurate?

19 A The denial, no.

20 (Deposition Exhibit Nos. 74 and 75
21 marked for identification by counsel
22 and tendered to the witness.)

23 BY MR. JOHNSON:

24 Q Okay. I'm handing you what we've marked as

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1 Exhibits 74 and 75. 74 is WK-25 to 27, and 75 is WK-28
2 to 31.

3 What are these emails, Mr. Maupin?

4 A They are the profit and loss and balance sheet?

5 Q Of who?

6 A Of Weather King.

7 Q Okay. Why were you emailing these to yourself?

8 A I was going to -- my original intent with them
9 was to confront David about the information that was on
10 them.

11 Q Well, where did you get the information?

12 A Where were these? They were in a manila
13 envelope back in Tim Boyd's cubicle.

14 Q And it was a manila envelope that was sealed
15 with Tim Boyd's name on it, wasn't it?

16 A No.

17 Q Okay. Why was your original intent to confront
18 Mr. Sullivan with it?

19 A Because for the longest time, you know, we
20 can't fix this. We can't do this, and we can't do that
21 because we don't have the money, and it shows that we did
22 have the money. And I talked to my wife about it, and
23 she said that would be a bad idea. That I would get my
24 walking papers for that.

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1 Q I believe you previously testified to this.

2 But just to confirm, you acknowledge that you didn't have
3 authorized access to this information; correct?

4 A It was laying on an open cubicle. I didn't
5 even know what it was when I opened it.

6 Q Okay. But you were not authorized to have this
7 financial information of Weather King; correct?

8 A I don't guess, no.

9 Q Did you believe that this information would be
10 useful for ABCO?

11 A I mean, I thought it might be. But there's
12 really nothing on there -- that's not -- it doesn't tell
13 you how to sell a building or how to build a building or
14 deliver a building. So I mean . . .

15 Q Let's go back to Exhibit 5, which is your first
16 discovery responses.

17 A Five is the one that I couldn't find earlier,
18 David.

19 Q It should be a thick one. Let me see -- this
20 might be it. This one right here. Look on Page 5.

21 Okay. This interrogatory No. 8 asks you
22 information about accessing Weather King's profit and
23 loss statements, balance sheets or inventory counts;
24 correct? And in response there, you say, I printed the

1 pictures, deleted them, did nothing with them, and left
2 them behind in my desk when I left Weather King.

3 Did I read that correctly?

4 A Yes.

5 Q Is that truthful and accurate?

6 A No.

7 Q Okay. What is untruthful?

8 A Well, I mean, I did email them to myself and I
9 did throw them away or left them there. But I did send a
10 picture of the bottom corner, I think there was nine
11 lines, to Barry and Wade.

12 Q By text?

13 A Yes.

14 Q So that was something that we learned through
15 the forensic examination, isn't it, Mr. Maupin?

16 A I think you had that before that.

17 Q Well, I'll just represent to you that we did
18 not have those text messages.

19 (Deposition Exhibit No. 76 marked for
20 identification by counsel and
21 tendered to the witness.)

22 BY MR. JOHNSON:

23 Q I handed to you what we'll mark as Exhibit 76,
24 which is ABCO 4734.

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1 Q I mean, he says, Awesome job. He was tickled
2 pink, wasn't he?

3 A Yes.

4 Q Okay. And then at 11:57, he says, Honestly, I
5 think we'll hit it big right off the start and the LOC
6 won't even be a thought.

7 The LOC is the line of credit; correct?

8 A Correct.

9 Q And then you respond at 11:59, quote, "Our
10 people are ready," end quote; correct?

11 A Yes.

12 Q And they were ready because you were making
13 sure they were ready. The people would get off right at
14 the start; correct?

15 A Yes.

16 Q Did you ever share with Kyron Koehn information
17 that you learned from that balance sheet or profit and
18 loss statement from Weather King?

19 A Some information, yes.

20 Q What information?

21 A It would have been what the total sales were
22 and what the owners had made.

23 Q So looking back at your response to
24 interrogatory No. 8, when it says, I printed the

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1 pictures, deleted them, and did nothing with them, that's
2 not a full and complete, accurate and truthful response;
3 correct?

4 A Well, correct. I mean -- but I didn't do
5 nothing with them.

6 Q Well, you shared some of the information with
7 Kyron Koehn, didn't you?

8 A Yes.

9 Q As well as Barry Harrell and --

10 A Wade Etherton.

11 Q -- Wade Etherton. What about anybody else?

12 A Not that I remember.

13 Q Going back to that prior exhibit that I told
14 you to keep. There it is. I think it's 77.

15 If you look on that last page at
16 11:00 o'clock, you say --

17 A Hold on.

18 Q Well, I had the right exhibit. Let's see. No,
19 I'm sorry, it's --

20 A 76?

21 Q Yes, sir, Exhibit 76.

22 Look at the second to last page of that
23 one at 11:00 o'clock. You say on there, There's good
24 info on all of that; correct?

1 **between you and Haley Bomar?**

2 A Yes.

3 (Deposition Exhibit No. 105 marked
4 for identification and tendered to
5 the witness.)

6 BY MR. JOHNSON:

7 **Q Handing you what we've marked as Exhibit 105,**
8 **which is ABCO 63140.**

9 Do you recognize these as text messages
10 **between you and Wade Etherton on May 2, 2022; correct?**

11 A Yes.

12 **Q And this is referring to getting authorization**
13 **to invite Amber Hill to join your business enterprise;**
14 **correct?**

15 A Yes.

16 **Q And you previously mentioned that --**
17 **acknowledged that you did not list Amber Hill as a person**
18 **with whom you communicated about ABCO while you worked**
19 **for ABCO [sic]; correct?**

20 A I had said Amber earlier. It wasn't on the
21 original interrogatories, but we discussed that earlier.

22 **Q Right.**

1 employees?

2 A I don't know.

3 Q You wanted to have them lined up before you
4 left, didn't you?

5 A Yes.

6 Q Who all did you say was there, the employees
7 and drivers from that plant; is that correct?

8 A No.

9 Q Who all was there?

10 A Brian Lassen, Aleyna, and the builders.

11 Q Who all spoke at the meeting?

12 A Me and Brian.

13 Q And they were told during that meeting they
14 would have the opportunity to join the new business;
15 correct?

16 A We were leaving. If you want to come, that's
17 up to you.

18 Q Okay. Did you have a similar meeting before
19 June 1, 2022, in Peoria, Arizona?

20 A I did not.

21 Q Okay. Did Daniel Hershberger have a similar --
22 have a meeting with the plant employees in June 1, 2022,
23 about leaving, about ABCO?

24 A On June 1?

1 Q Before June 1?

2 A Yes.

3 Q Okay. And we'll get to that in a moment.

4 What was the plan for Peoria?

5 A Well, we rented a shop and build buildings
6 somewhere else.

7 Q And was the plan for Daniel Hershberger to
8 resign in mid June, work from a temporary facility, and
9 then try to squeeze Weather King out of Peoria?

10 A I don't know.

11 Q You don't know?

12 A Uhn-uhn.

13 Q You were in Peoria around May 25 and 26 with
14 Mr. Hershberger, weren't you, 2022?

15 A I don't remember. I mean, possibly.

16 Q If Weather King's credit card statement showed
17 that it was paying for you to be out in Arizona in
18 May 25, May 26, would you deny that you were out there?
19 Would you dispute that?

20 A No. I just don't remember.

21 Q Well, you remember your last trip out west
22 before you left Weather King?

23 A Not really. I know it was right before
24 Memorial Day.

1 Q Right.

2 A Or whatever holiday is in May.

3 Q Memorial Day.

4 (Deposition Exhibit No. 117 marked
5 for identification by counsel and
6 tendered to the witness.)

7 BY MR. JOHNSON:

8 Q Handing you what's been marked as 117.

9 Do you recognize these as May 26, 2022
10 texts with Daniel Hershberger?

11 A Yes.

12 Q And does that refresh your memory about being
13 out there around that point in time?

14 A Yes.

15 Q What is your understanding of what
16 Mr. Hershberger said to the employees at that meeting?

17 A I don't know. I wasn't there.

18 Q What did you hear?

19 A I mean, I don't -- I don't honestly remember.

20 Q Well, one of the topics of -- one of the topics
21 for a Rule 30(b) (6) notice of ABCO was a person who would
22 have knowledge about communications with Weather King
23 employees.

24 Are you prepared in this deposition to

1 **answer on behalf of ABCO about what communications were**
2 **had in Peoria with the employees at that shop?**

3 A I wasn't there. I mean, I would have to ask
4 Daniel. I don't know what was said.

5 Q **So you weren't prepared to answer those**
6 **questions today?**

7 MR. PASTERNAK: That's not a topic, counsel.
8 You're drawing down to a very specific topic, and the
9 topic is communications.

10 BY MR. JOHNSON:

11 Q **The bottom line is you're not prepared; is that**
12 **correct?**

13 MR. PASTERNAK: Disagree.

14 THE WITNESS: Yes.

15 BY MR. JOHNSON:

16 Q **To answer that question? At least that**
17 **question, you're not prepared?**

18 A No, I didn't know what took place there.

19 Q **But you do understand that Daniel Hershberger**
20 **had a meeting with the employees at that shop before**
21 **June 1, 2022?**

22 A Yes.

23 Q **Do you know if that was before or after your**
24 **business trip out there?**

1 A I don't know.

2 Q If a Peoria employee testified that you were
3 present when that meeting took place, would you deny
4 that?

5 A I was not there so, yes, I would deny that.

6 (Deposition Exhibit No. 118 marked
7 for identification by counsel and
8 tendered to the witness.)

9 BY MR. JOHNSON:

10 Q Okay. Handing you what we've marked as
11 Exhibit 118. This is ABCO 65349, and you are not a party
12 to this text chain. This is a text chain that was
13 retrieved off of Daniel Hershberger's device in
14 forensics.

15 And on May 27, 2022, he's -- at
16 8:57 p.m., he says, Hey, guys. I'm meeting with Weather
17 King drivers on Monday to discuss future changes and
18 opportunities. Just wondering if you would like to get
19 in on it.

20 Do you see that?

21 A Yes.

22 Q Mr. Hershberger was employed by Weather King at
23 a time he sent that text; correct?

24 A Yes.

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1 Q And he was also employed at Weather King that
2 following Monday, which would have been May 30 according
3 to our calendar over here.

4 Can you explain why Mr. Hershberger would
5 be having this meeting at Weather King's plant to discuss
6 future opportunities with a competing business enterprise
7 while he was still employed by Weather King?

8 A No.

9 Q Who was Paul Madson (phonetic)?

10 A He have was a painter.

11 Q Where was he?

12 A In Peoria.

13 Q Did you talk to him about ABCO?

14 A After the fact, yes.

15 Q When you say "after the fact," when was that?

16 A It was after June 1st.

17 Q Of 2022?

18 A Yes.

19 Q Is he an honest person?

20 A I guess.

21 Q Do you deny telling him that you would be
22 helping Hershberger get his plant up and running while
23 you were still employed by Weather King?

24 A No, I do not deny that.

1 Q Do you deny telling him before June 1, 2022,
2 that Weather King would be closing the Peoria plant and
3 no one would have a job?

4 A I don't remember telling Paul that, no.

5 Q You did not tell him that?

6 A I don't remember telling him.

7 Q Okay. Do you remember telling him that he
8 would be invited to have a job with the new company?

9 A I don't remember that either.

10 Q Isn't it true that he kept trying to call Jill
11 Coker before you left the company on June 1?

12 A He called that day, yeah, and he never asked to
13 talk to Jill.

14 Q Well, you were fielding his calls, weren't you?

15 A No.

16 Q Who was Nathan Henthorn (phonetic)?

17 A He was a builder in Peoria.

18 Q Is he an honest person?

19 A I don't know the guy.

20 Q What conversations did you have with him about
21 ABCO before June 1, 2022?

22 A I don't remember talking to Nathan about
23 anything.

24 Q Do you know if a similar meeting was held in

1 Milan, New Mexico, before June 1?

2 A I don't.

3 Q Do you know whether Ryan Brown had a meeting
4 with the employees at that shop before June 1, 2022?

5 A I don't.

6 Q Did you ask him?

7 A No.

8 Q Okay. Well, let's look back at ABCO's
9 discovery responses that we were just looking at, which
10 was Exhibit 14, interrogatory No. 6.

11 In response to this interrogatory, why is
12 that meeting in Peoria, Arizona, with those employees not
13 listed?

14 A I didn't have the meeting.

15 Q Well, the answer is -- the answer is posed to
16 ABCO, not just to you. The question is about identifying
17 any persons who were employed by Weather King and who was
18 approached about the possibility of forming an employment
19 relationship or other relationship with ABCO.

20 A But ABCO was --

21 Q Or an ABCO affiliate?

22 A ABCO and I didn't approach anybody.

23 Q Well, it's not asking if you or ABCO were
24 approached. It's asking about who was approached by

1 anyone?

2 A Then I didn't understand what it was asking.

3 Q Okay. When was the plan for everyone to leave
4 Weather King?

5 A Middle of June.

6 Q And as of late May 2022, the plan was for
7 Stephanie Gillespie to leave at the end of May and then
8 you guys to leave middle of June; correct?

9 A Yes.

10 (Deposition Exhibit No. 119 marked
11 for identification by counsel and
12 tendered to the witness.)

13 BY MR. JOHNSON:

14 Q I hand to you what we've marked as Exhibit 119.
15 This is ABCO 36705.

16 Do you recognize this as text messages on
17 May 31, 2022, between you and Daniel Hershberger?

18 A Yes. The question mark, so yes.

19 Q And you were asking him to get his payroll in
20 before Gillespie left the company; correct?

21 A Yes.

22 Q It was important for you to be -- for Steph to
23 be the one to approve it; correct?

24 A It was important for Daniel's log to get down.

1 This is ABCO 5064.

2 In that last text there at 6:28 p.m., he
3 asked you a question. Why don't you read what he asked
4 you?

5 A Has the hostile takeover started, and he spelt
6 it wrong.

7 Q Well, right. And so had you portrayed to Mark
8 Lovell then that you're planning what amounted to a
9 hostile takeover or words to that affect?

10 A Well, Mark knew. But I mean, he labeled it
11 that, but yes.

12 Q Okay. Isn't it true that you and the other
13 defendants suggested to Weather King's relationships out
14 west such as dealers, drivers and builders that Weather
15 King would be in financial distress and not able to pay
16 its bills?

17 A No.

18 MR. JOHNSON: Could we hand the witness
19 Exhibit 17, please?

20 (Whereupon, the document was
21 tendered.)

22 BY MR. JOHNSON:

23 Q If we look at interrogatory No. 5, this is an
24 interrogatory to ABCO, it's asking you to identify each

1 person who served as an ABCO employee and who was
2 previously employed by Weather King, and a number of
3 people are listed on there.

4 Is that response truthful and accurate?

5 A No.

6 Q Okay. Why is it not truthful and accurate?

7 A It doesn't have Amber Hill on there.

8 Q And what about Mitch Sykes?

9 A Mitch Sykes was already -- I think he had
10 already had been terminated after whenever this was done.

11 Q Well, the question was identify each person who
12 has served as an employee of ABCO?

13 A Well, that was a mistake.

14 Q How much care did you give to responding to
15 Weather King's discovery?

16 MR. PASTERNAK: Objection. Vague and
17 ambiguous.

18 THE WITNESS: I mean, as much care as I could.
19 I mean, it was a -- you make mistakes.

20 BY MR. JOHNSON:

21 Q Would you agree Mr. Maupin that your discovery
22 responses and ABCO's discovery responses have contained
23 quite a few mistakes?

24 A They have had mistakes, yes.

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1 joists, all of that is different.

2 MR. JOHNSON: Okay. Could we please hand the
3 witness Exhibit 72?

4 (Whereupon, the document was
5 tendered.)

6 BY MR. JOHNSON:

7 Q If we look on Page 22 and look at Paragraph 59
8 of our complaint, the first two sentences of that say,
9 Many jurisdictions require owners of certain portable
10 buildings to obtain a building permit. Those
11 jurisdictions typically require a permit applicant to
12 submit building plans/drawings prepared by an
13 appropriately licensed engineer in connection with the
14 application.

15 Do you see that?

16 A Yes.

17 Q Is that true? Is that accurate?

18 A Yes.

19 Q Okay. So looking at your answer, you put
20 denied on there.

21 Why did you and ABCO deny that?

22 A Because it -- and I guess it would have been --
23 it should have been a two-stage. But they don't require
24 engineered -- require builders and sellers of portable

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1 buildings to have pre-approved engineered plans before
2 units are built.

3 Q You're reading the third sentence?

4 A Yeah, I guess.

5 Q Why were the first two questions -- first two
6 sentences not admitted?

7 A I don't know.

8 Q Okay. Now, let's look at Paragraph 62. And
9 that one, the allegation is, Upon information and belief,
10 after his termination from Weather King, Mr. Maupin
11 retained copies of certain Weather King's engineering
12 plans prepared by Mr. Nolan, and the answer is denied.

13 Is that answer truthful and accurate?

14 A I didn't retain copies. Everybody had them.

15 Q So you didn't retain any copies of Weather
16 King's drawings?

17 A Yes.

18 Q Okay. And if we look -- I'm going to hand to
19 you what we'll mark as Exhibit 160.

20 (Deposition Exhibit No. 160 marked
21 for identification by counsel and
22 tendered to the witness.)

23 BY MR. JOHNSON:

24 Q This is a letter from Adam Crider with the

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1 Rainey Kizer firm to me dated June 16, 2022.

2 Is Mr. Crider an attorney who was
3 retained to represent you and ABCO as of the time?

4 A Yes.

5 Q And he was writing this letter on your behalf;
6 correct?

7 A Yes.

8 Q Okay. If we look at that last paragraph there
9 at the bottom of the first page, it says, I have
10 conferred with my clients and they have assured me that
11 they did not retain -- I'm sorry, that they do not have
12 any property of Consolidated.

13 Is -- that sentence, is that truthful and
14 accurate?

15 A At the date of this, it would have been, yes.

16 Q Okay. And then a couple sentences down, it
17 says, For further clarification, Mr. Maupin and American
18 Barn do not have any electronically stored information of
19 Consolidated to return.

20 Is that truthful and accurate?

21 A At that time we did not have any, yes.

22 Q Okay. Did you possess any Weather King
23 property after you left Weather King, including
24 electronically stored information?

1 A No.

2 (Deposition Exhibit No. 161 marked
3 for identification by counsel and
4 tendered to the witness.)

5 BY MR. JOHNSON:

6 Q If we look at -- I'm going to hand to you what
7 we're marking 161. This is a letter dated November 15,
8 2022, from your attorney Mr. Pasternak to my partner John
9 Dollarhide.

10 And in there, there's another
11 assurances -- other assurance as of November 15, 2022,
12 that Mr. Maupin has not stolen Weather King's drawings or
13 used those drawings in conjunction with building permit
14 applications.

15 Is that representation truthful and
16 accurate?

17 A Yes, we didn't steal the drawings.

18 Q Okay. Or use those drawings in connection with
19 building permit applications; correct?

20 A I did not, no, correct. I did not.

21 MR. JOHNSON: If we could hand the witness
22 Exhibit No. 5 please. This is Mr. Maupin's first
23 discovery responses.

24

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1 (Whereupon, the document was
2 tendered.)

3 BY MR. JOHNSON:

4 Q And if you flip over to Page 4, interrogatory
5 No. 7, did that ask you to identify all property of
6 Weather King that has been in your possession at any time
7 after the date of termination of your employment with
8 Weather King, and your response is none; correct?

9 A Correct.

10 Q Is that truthful and accurate?

11 A No.

12 Q Why is that not truthful and accurate?

13 A Because every dealer had Weather King's plans
14 on their computer.

15 Q Well, this isn't asking about dealers. This is
16 asking about you.

17 A Well, I mean, I got it off the dealers'
18 computers.

19 Q Okay. Interrogatory No. 10 asks to identify
20 all Weather King property to which you had authorized
21 access but that you shared with a third-party or
22 otherwise made use of the property for any purpose other
23 than the furtherance of Weather King's business, and your
24 response to that is none.

1 Do you see that?

2 A Mm-hmm.

3 Q Is that a "yes"?

4 A Yes.

5 Q Is that truthful and accurate?

6 A Well, if the other one was -- wasn't, this one
7 would not be either.

8 Q Pardon me?

9 A If the other one was not, this one would not be
10 either.

11 Q Sir, is your testimony that that's not a
12 truthful and accurate response?

13 A Yes.

14 Q Okay. Why is that not truthful and accurate?

15 A Because I had -- I mean, I got the plans off
16 the dealers' computers. It would have been -- it would
17 have been the same thing.

18 Q Okay.

19 A But I got a letter from Old Hickory stating
20 that the property -- those plans belonged to Old Hickory.

21 MR. JOHNSON: Could we hand the witness
22 Exhibit 12? This is ABCO's first discovery responses.

23 (Whereupon, the document was
24 tendered.)

1 BY MR. JOHNSON:

2 Q On Page 7, interrogatory No. 14, that asks a
3 similar question about -- as to ABCO to identify all
4 property of Weather King that ABCO has possessed, and the
5 answer to that is none.

6 Is that a truthful and accurate response?

7 A No.

8 Q Okay. Then if we look at No. 16 --
9 interrogatory No. 16.

10 A That's what I thought we were looking at?

11 Q No, I said No. 14, I thought.

12 A I was looking at this one.

13 Q Okay. Let's talk about 14 first.

14 Is it -- interrogatory No. 14 asks ABCO
15 to identify all property of Weather King that's been in
16 ABCO's possession, and the answer is none.

17 Is that truthful and accurate?

18 A No.

19 Q Okay. Let's look at 16.

20 A That's what I thought I was answering.

21 Q Okay. It says, identify all communications you
22 had with any dealers, builders, et cetera, relating to
23 Weather King's engineering plans prepared by Kevin Nolan,
24 and ABCO responded none.

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1 Is that response truthful and accurate?

2 A No.

3 Q Okay. Let's look at request for production
4 No. 20. That's on Page 12 and 13. It asks you to
5 produce all correspondence -- asks ABCO to produce all
6 correspondence and other documents referencing or
7 relating to Weather King drawings, et cetera, and your
8 response is none.

9 Is it truthful and accurate that ABCO did
10 not possess those documents?

11 A No.

12 Q Okay. Let's look at request for admission
13 No. 140. It's on Page 43. It says, ABCO encouraged
14 dealerships to submit Weather King engineering plans in
15 connection with ABCO's customers' building permit
16 applications, and the response is denied.

17 Is that response truthful and accurate?

18 A Yes.

19 Q Okay. After you left Weather King, did you
20 discuss with Kevin Nolan about using his plans for ABCO?

21 A I discussed with Kevin about doing plans for
22 ABCO. I have a text message string that you guys have
23 going over that.

24 Q Is that text message string that you did not

1 **produce in response to our request for production?**

2 A Yes.

3 **Q And Mr. Nolan said he would not -- you could**
4 **not use -- he would not help you with drawings; correct?**

5 A When I called him, I think it was on June 13th
6 when I called him. He said that we -- that they -- Brian
7 let's him work for his competitors, engineering, and that
8 he didn't think it would be a problem. He would get back
9 with me. He texted me back and said Brian said it was a
10 no go. That I can't do it.

11 **Q Okay. And you did not produce those texts in**
12 **discovery, did you?**

13 A As stated before, yes.

14 **Q Okay. Who is Shane Saunders?**

15 A Shane Saunders was with the Phoenix Group --
16 Phoenix Engineering, I believe.

17 **Q And is that someone that you discussed the**
18 **possibility of preparing engineering plans?**

19 A Yes.

20 (Deposition Exhibit No. 162 marked
21 for identification by counsel and
22 tendered to the witness.)

23 BY MR. JOHNSON:

24 **Q I'm going to hand to you what we'll mark as**

1 Exhibit 162. These are documents starting at Phoenix
2 0001 that we obtained in response to a subpoena to
3 Phoenix Engineering.

4 Do you recognize this as an email with
5 attachments that you sent on June 15th to Shane Saunders?

6 A Yes.

7 Q And attached to the email are Kevin Nolan's
8 drawings in Arizona that are dated June 29, 2020, that
9 Weather King paid Mr. Nolan to prepare for Weather King;
10 correct?

11 A Yes.

12 Q If you and ABCO didn't possess Weather King
13 drawings after June 2, 2022, could you explain how we're
14 looking at an email that you sent on June 15 in which
15 you're sending Weather King's drawings to Mr. Saunders?

16 A No. Like I said on the -- before, that that
17 was incorrect. So that's how we had those. I got them
18 off of a dealers' computer in Arizona.

19 Q So that's something that you concealed from
20 Weather King in your discovery responses?

21 A Yes.

22 Q And, in fact, if we looked back at that exhibit
23 from the Rainey Kizer firm, which was Exhibit 161, the
24 day after you sent that email -- the day after you sent

1 video record.

2 BY MR. JOHNSON:

3 Q Mr. Maupin, if you could pull Exhibit 5 which
4 is there, and we'll look on Page 26. This is a request
5 for admission No. 54 posed to you, and it asked you to
6 admit that you and/or ABCO have used Weather King
7 templates or form documents in furtherance of business
8 other than Weather King business, and your response is
9 denied.

10 Is that a truthful and accurate response?

11 A No.

12 Q Why is that untruthful and/or inaccurate?

13 A Well, the work order template was a Derksen
14 template, but it was used by Weather King also.

15 Q So you're saying that ABCO used a work order
16 template?

17 A Yes, it's an open office spreadsheet. It was
18 copied. It's an exact copy of it.

19 Q Any other form documents that ABCO has used
20 that were Weather King templates or form documents?

21 A Not that I know of.

22 Q Okay. Then if you could also pull Exhibit 12
23 there and look at ABCO's response to request for
24 admission No. 141, which is on Page 43. It's asking ABCO

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1 to admit that it has used Weather King's templates or
2 form documents, and ABCO denied that.

3 And similar question, is that response
4 untruthful and inaccurate?

5 A Yes.

6 Q And are the circumstances the same as what you
7 just mentioned?

8 A Yes.

9 Q And we went over some discovery earlier. Let's
10 just look back at Exhibit 5. The -- your response to
11 numbers -- interrogatory Nos. 7 and 10, you indicated
12 there that you didn't possess any Weather King property
13 that was used in furtherance of ABCO's business.

14 And is it accurate that -- am I correct
15 that those responses are inaccurate to the extent that
16 they say none?

17 A I thought I had already answered that one but,
18 yes, that is inaccurate.

19 Q Is it also inaccurate because of that form
20 document you just mentioned?

21 A Yes. You said No. 10 also?

22 Q Yes, sir.

23 A Yes.

24 Q And then also if we look back at Exhibit 12,

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1 **Q And so that's what you guys were doing was**
2 **getting rid of incriminating evidence; right?**

3 **A Well, we had instructed the dealers not to have**
4 **any of it.**

5 **Q Well, Adrian and Logan are laughing about it,**
6 **aren't they?**

7 **A Yes.**

8 **Q And they thought this whole thing was a big**
9 **joke and a big game, didn't they?**

10 **MR. PASTERNAK: Objection. Calls for**
11 **speculation.**

12 **THE WITNESS: By the looks of that, yes.**
13 **BY MR. JOHNSON:**

14 **Q An important part of launching ABCO was to get**
15 **seed money to get it off the ground; correct?**

16 **A Yes.**

17 **Q Why was that important?**

18 **A We need money to build barns.**

19 **Q Who all invested money into ABCO?**

20 **A BPS Rentals, Goode Holdings, Jade Rentals, Wade**
21 **Etherton, and myself.**

22 **Q Okay. Let's look at first ABCO's first**
23 **supplemental response. What exhibit is that?**

24 **MR. DOLLARHIDE: 13.**

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(Whereupon, the document was
tendered.)

BY MR. JOHNSON:

Q Okay. Let's look at No. 4. And in that one,
it's asking to, Identify each person or entity who has
otherwise invested in or provided financial support to
ABCO and other than identified in response to the
proceeding interrogatories. And ABCO's response on that
is none, okay.

Now if we take Exhibit 12, and if you
look at the first three interrogatory responses on that,
Barry Harrell, Wade and you are referenced and nobody
else.

So is ABCO's response to interrogatory
No. 4 truthful and accurate?

A No.

Q Okay. How much did Wade Etherton -- is it
Etherton or Etherton?

A Etherton.

Q Etherton invest? I think you said -- well, we
talked about that yesterday?

A Yes.

Q I'm not going to ask you that again.

Okay. And if we look back at Exhibit 13,

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1 MR. JOHNSON: Yeah, we'll take the break off
2 the record.

3 THE VIDEOGRAPHER: Okay. The time is 2:27 p.m.
4 This is the end of Media Unit 3, and we're going off the
5 video record.

6 (Whereupon, a short recess was had,
7 after which the deposition continued
8 as follows:)

9 THE VIDEOGRAPHER: The time is 2:36 p.m. This
10 is the beginning of Media Unit 4, and we are back on the
11 video record.

12 BY MR. JOHNSON:

13 Q Have you or ABCO consulted with dealers,
14 builders or other third parties about how they should
15 respond to subpoenas issued in this litigation by Weather
16 King?

17 A Not that I know of.

18 Q Have you or ABCO ever suggested that they
19 should object and not respond to Weather King's
20 subpoenas?

21 A Yes.

22 Q And could you tell us about that?

23 A Well, I mean, they were -- a lot of the
24 stuff -- some of the stuff that the -- the way I took it,

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1 some of the stuff that they were being asked for wasn't
2 relevant to this.

3 Q So you suggested that they object and not
4 respond to our subpoenas on the basis of relevance?

5 A Yes.

6 Q Okay. Have you or ABCO helped them craft their
7 objections to our subpoenas?

8 A Yes.

9 Q Who specifically has helped them craft their
10 objections?

11 A I -- there was a letter that I had done up that
12 was something to the extent of an objection. I don't
13 remember the context of it, but it was a letter that I
14 had did.

15 Q So you drafted up a letter that was sent to
16 third parties for them to send back to us?

17 A Yes.

18 Q Did you get help with that letter?

19 A Yes.

20 Q From who?

21 A I think I got it from Doug.

22 Q Doug Hines?

23 A Yes. And I don't know if that's attorney
24 client. I don't know how all that works, but I think

1 that's who I got it from.

2 Q Have you or ABCO suggested that third parties
3 should simply respond that all communications were
4 verbal, and there are no documents responsive to Weather
5 King's subpoenas?

6 A Yes.

7 Q But yet as we've seen today, there are plenty
8 of communications with dealers and others that were not
9 verbal and instead were sent via text and email; correct?

10 A Yes.

11 (Deposition Exhibit No. 216 marked
12 for identification by counsel and
13 tendered to the witness.)

14 BY MR. JOHNSON:

15 Q I hand to you what we've marked as Exhibit 216.
16 This is ABCO 68884.

17 And this is email communications between
18 Cherie Austin and Adrian Harrod; correct?

19 A Yes.

20 Q And she says in there, Here's a copy of the
21 letter that you sent from the attorney; correct?

22 A Yes.

23 Q Is that attorney she's referring to Doug Hines?

24 A Yes.

1 **Q** And the second page, is this the form letter
2 that you're referring to?

3 A Yes.

4 **Q** And Doug Hines helped you craft this letter?

5 A Yes.

6 **Q** Why would ABCO be sending this to Cherie
7 Austin?

8 A Adrian sent it to her in response to the
9 subpoena, I guess.

10 **Q** Well, you sent it because you didn't want
11 Cherie Austin to cooperate with the subpoena; correct?

12 A She wasn't going to anyway. It's Aleyna's mom.

13 **Q** Aleyna Lassen?

14 A Yes.

15 **Q** But you were helping her not to cooperate with
16 our subpoena; right?

17 A Yes.

18 (Deposition Exhibit No. 217 marked
19 for identification by counsel and
20 tendered to the witness.)

21 BY MR. JOHNSON:

22 **Q** I'm handing you what we've marked as
23 Exhibit 217. This is ABCO 72164.

24 Again, Levi Reed is a dealer; correct?

1 A Yes.

2 Q And do you recognize this as text messages that
3 you had with Mr. Reed in August 2023?

4 A Yes.

5 Q And judging from the text messages, it looks
6 like he received one of our subpoenas; correct?

7 A Everyone did, yes.

8 Q Okay. At 11:01 a.m., you state, quote, "Most
9 everyone was talked with about this stuff in person by
10 Adrian," end quote; correct?

11 A Yes.

12 Q So most of Adrian Harrod's communications with
13 these dealers lining them up before June 1, 2022, was in
14 person; is that right?

15 A That was my belief.

16 Q And he was doing so while he was still employed
17 by Weather King?

18 A Yes.

19 Q Okay. And at 2:24 in that text chain, you say,
20 Our lawyer is going to respond for everyone that doesn't
21 have anything, which is pretty much everybody; right?

22 A Correct.

23 Q And by "our lawyer," you're not referring to
24 Mr. Pasternak. You're referring to Mr. Hines?

1 A No, I believe I was referring to Thomas.

2 Q Was this the -- you believe you were referring
3 to Mr. Pasternak?

4 A I do.

5 Q Okay. Why would your lawyer be responding on
6 behalf of third parties who are issued subpoenas in this
7 litigation?

8 A That I don't know.

9 Q Okay. Then at 2:27, Levi Reed says, This is
10 disgusting how they are doing this to us. Honestly,
11 terrible people. And you say, Yes, sir, they are.

12 Do you see that?

13 A Yes.

14 Q Do you think Weather King are terrible people
15 for pursuing this lawsuit?

16 A No.

17 Q Do you think that Weather King are terrible
18 people for serving subpoenas on third parties to produce
19 documents that they requested from you that you didn't
20 produce?

21 MR. PASTERNAK: Objection. Lack of foundation.

22 BY MR. JOHNSON:

23 Q You could answer.

24 A Everything that the dealers had was the stuff

1 that they had that was -- it was an accumulation of
2 years. So I mean -- I guess I don't understand what you
3 mean.

4 Q All right. I'll move on.

5 Do you agree, Mr. Maupin, that you have
6 painted Weather King as being terrible, horrible people
7 to people out in the industry by virtue of the fact that
8 Weather King has been pursuing this lawsuit?

9 A Could you rephrase or ask that again?

10 Q Would you concede that you have been portraying
11 within the portable building industry Weather King as
12 being a terrible and horrible company because they have
13 the gall to pursue this lawsuit against you?

14 A Yes.

15 (Deposition Exhibit No. 218 marked
16 for identification by counsel and
17 tendered to the witness.)

18 BY MR. JOHNSON:

19 Q Handing you what we've marked as Exhibit 218.
20 There is ABCO 68903.

21 Do you recognize this as email
22 correspondence between you and Adrian Harrod on
23 October 4, 2023? Well, I'm sorry, the top one is from
24 Adrian to Colby Fryar, who is a dealer; correct?

1 A Yes, sir.

2 Q And you're copied; correct?

3 A Yes.

4 Q And Colby Fryar emailed you a letter he
5 received from us after receiving the objections that your
6 lawyer sent him to provide to us, that template that we
7 talked about earlier; correct?

8 A Yes.

9 Q Okay. And you tell Adrian Harrod in the email
10 below, quote, "I don't believe there are any documents to
11 be turned over;" correct?

12 A Yes.

13 Q And you suggest that Mr. Harrod tell Mr. Fryar
14 to tell us that he doesn't have anything; correct?

15 A No, that's not what it says. It says, If there
16 are any documents or anything else to be turned over, as
17 you had verbal conversations on everything. This was me
18 talking to Adrian.

19 Q Okay. But what does he say to Colby? It
20 says --

21 A I assume you received a copy of this letter
22 from Weather King attorneys. This appears to be fishing
23 for a connection in funding and/or a connection somewhere
24 of our interactions being defamatory in nature which were

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1 all verbal. We can reply as verbal in nature and really
2 no written communication to relay, no funding ever given
3 to anyone involved with ABCO, and engineering only used
4 in conjunction with normal use to permit their buildings
5 as everyone had them for that reason.

6 Q Mr. Maupin, why not just let Mr. Fryar check
7 his own devices and see if he has information responsive
8 to Weather King subpoenas?

9 A I don't know.

10 Q Well, the real reason was that you didn't want
11 him to cooperate with the subpoenas; correct?

12 A I didn't say that to him.

13 Q Well, Adrian Harrod did, didn't he?

14 A Yes, sir.

15 Q Okay. And we saw earlier today email
16 communications that you guys had with Mr. Fryar and that
17 were produced; correct?

18 A Yes.

19 (Deposition Exhibit No. 219 marked
20 for identification by counsel and
21 tendered to the witness.)

22 BY MR. JOHNSON:

23 Q I've handed you what we've marked as
24 Exhibit 219, which is ABCO 75943.